

California Victim Compensation and Government Claims Board
Open Meeting Minutes
December 10, 2015, Board Meeting

The California Victim Compensation and Government Claims Board (Board) convened its meeting in open session at the call of Marybel Batjer, Secretary, California Government Operations Agency, at 400 R Street, Sacramento, California, on Thursday, December 10, 2015, at 10:07 a.m. Also present was member Richard Chivaro, Deputy State Controller and Chief Counsel, acting for and in the absence of Betty T. Yee, Controller. Member Michael Ramos, San Bernardino County District Attorney, participated in the meeting via teleconference and was located at 303 West 3rd Street, 6th Floor, San Bernardino, California.

Executive Officer Julie Nauman and Chief Counsel Wayne Strumpfer were in attendance. Tisha Heard, Board Liaison, recorded the meeting.

The Board meeting commenced with the Pledge of Allegiance.

Observance of a Moment of Silence

The Board observed a moment of silence for the victims of the San Bernardino mass shooting.

Member Ramos thanked the Board for allowing him to participate in the meeting by teleconference. He remarked that following the shooting, Governor Brown and Attorney General Kamala Harris visited San Bernardino. Member Ramos reported that yesterday he met with the families of the 14 deceased victims and the survivors. He stated five victims remain hospitalized. Member Ramos informed the families that CalVCP would help the victims and derivative victims obtain the resources they need.

Item 1. Approval of Minutes of the November 19, 2015, Board Meeting

The Board approved the minutes of the November 19, 2015, meeting.

Item 2. Approval of Minutes of the August 20, 2015, Board Meeting

Members Chivaro and Ramos approved the minutes of the August 20, 2015 meeting. Chairperson Batjer abstained from the vote because she was not in attendance at that meeting.

Item 3. Public Comment

The Board opened the meeting for public comment. No comment was provided.

Item 4. Executive Officer Statement

Executive Officer Nauman remarked that it had been a difficult eight days following the mass shooting in San Bernardino. She reported that earlier in the week she and Member Ramos were on a conference call together. She thanked Member Ramos for his leadership and strong support of CalVCPs efforts. Ms. Nauman explained that staff has been in daily communication with the San Bernardino Victim Services Chief and her staff. Ms. Nauman reported that CalVCP had already begun receiving applications. She stated CalVCPs claims processing was streamlined whereby those applications have priority and will be processed as quickly as possible.

Ms. Nauman reported that she has been in communication with the federal Office for Victims of Crime (OVC). OVC contacted CalVCP to offer the opportunity to apply for the federal Antiterrorism and Emergency Assistance Program grant funds. Ms. Nauman explained that those grant funds are intended to go beyond the normal benefits that compensation programs provide to meet the unique, immediate, and extended needs of victims and derivative victims. She reported that the federal

government established the family assistance center to help the families. Advocates are located onsite determining the victims' needs and helping complete applications. The advocates are also helping CalVCP understand the unique needs so CalVCP can relay the information to OVC and secure the necessary funding. Executive Officer Nauman explained that CalVCP would help individuals to the maximum extent possible. She explained that the Board recently approved an increase in the funeral and burial benefit limit. Procedurally, that change would go into effect on January 1, 2016. She explained that CalVCP staff is working with providers to time the bills so they are submitted to CalVCP in a timeframe where CalVCP can provide the maximum assistance possible.

Chairperson Batjer offered her assistance to Executive Officer Nauman and Member Ramos should they encounter any problems. She stated she would work with the Governor's Office to remove any roadblocks.

Item 5. Contract Report

At the November 19, 2015 meeting, the Board delegated authority to the Executive Officer to enter into a contract with a vendor for CaRES Project Application Development and Architecture Services. Executive Officer Nauman reported that Capio Group was awarded \$983,500 from December 1, 2015, to December 31, 2016, to complete the final phase of the CaRES Modification Project which includes development, implementation, maintenance and operations transition, knowledge transfer, and documentation activities.

Item 6. Consent Agenda (Nos. 1-193)

Nicholas Wagner, Government Claims Program Manager, requested the Board approve consent agenda item numbers 1-193.

The Board approved the consent agenda.

Item 7. Request for Delegation of Authority by the Department of Motor Vehicles

Nicholas Wagner, Government Claims Program Manager, reported the California Department of Motor Vehicles (DMV) requested the Board grant it delegated authority to settle and pay or reject claims that do not exceed \$1,000 each during the period of February 1, 2016, through January 31, 2019. Mr. Wagner stated Government Claims Program staff recommended the Board approve DMVs request.

The Board approved the request.

Item 8. Applications for Discharge From Accountability for Collection

Nicholas Wagner, Government Claims Program Manager, reported that four State agencies requested discharge from accountability for collection of debt totaling \$56,248.42. Mr. Wagner stated that Government Claims Program staff recommended the Board approve the requests.

The Board approved the requests.

Item 9. Claim of Luis Galicia (Pen. Code, § 4900 et seq.)

The Board continued the claim and referred it back to the hearing officer to review new information received.

Victim Compensation Program

The Board commenced the Victim Compensation Program portion of the meeting at 10:23 a.m.

Request for Authority to Begin the Rulemaking Process for the California Code of Regulations (title 2, §§ 649, 649.1, 649.3, 649.4, 649.18, 649.46, 649.49, 649.50, 649.51, 649.52, 649.57, 649.60, 649.62)

VCGCB Chief Counsel Wayne Strumpfer explained that staff requested the Board approve the rulemaking process which would include a public meeting, comment period, final approval by the Board, and submission to the Office of Administrative Law.

Mr. Strumpfer stated most of the changes were the result of AB 1140, signed by Governor Brown, which amended several sections of the Government Code impacting CalVCP and necessitating revisions to current regulations.

Staff proposed the following changes:

- Revise section 649(a)(18)(C) because claimants who are required to utilize, and potentially exhaust, sick leave as a consequence of a qualifying crime are further harmed if they return to work and have no leave available for a non-crime related illness or injury.
- Repeal section 649.1 because new Government Code section 13955 makes it unnecessary and redundant.
- Revise section 649.3 to eliminate the current reduction in maximum CalVCP benefits because the Restitution Fund is solvent, justifying awards up to the statutory limit.
- Revise section 649.4 because new Government Code section 13956(c) authorizes nonviolent felons to receive CalVCP compensation under defined circumstances.
- Partially repeal section 649.18 because the reduction in benefits is inconsistent with new Government Code section 13957(a)(8) which mandates that CalVCP grant compensation for funeral/burial expenses up to the statutory maximum of \$7,500.
- Repeal section 649.46 because it directly conflicts with new Government Code section 13955(f)(3)(D).
- Enact section 649.49 to conform with new Government Code section 13956(b)(3) which directs the Board to adopt guidelines allowing the consideration of evidence other than crime reports when determining if the crime of sexual assault occurred.
- Revise section 649.50 to conform to new Government Code section 13956 and to define what conduct by either a driver or passenger is considered involvement in the events leading to a vehicle-related crime. Additionally, because the families of passengers killed in vehicle-related crimes suffer the most devastating loss contemplated by CalVCP, the proposed regulation authorizes reimbursement of funeral and burial expenses.
- Repeal section 649.51 because it directly conflicts with new Government Code section 13956(a)(1)(C) which eliminates "participation" as a basis to deny CalVCP compensation.
- Revise and partially repeal section 649.52 because it is redundant with the provisions of new Government Code section 13956 which codifies what factors shall be considered involvement in the events leading to a qualifying crime.
- Revise and partially repeal section 649.57 because new Government Code section 13956(a)(2) directly defines what factors CalVCP shall consider when determining mitigation of involvement in the events leading to a qualifying crime. The regulation also contains typographical errors which must be corrected.
- Partially repeal section 649.60 because new Government Code section 13956 (b)(1) excludes an applicant's conduct at the scene of a domestic violence crime from consideration when determining lack of cooperation. Repealing subsection (a) clarifies that

CalVCP will emphasize a domestic violence victim's actions after a suspect has been arrested when analyzing lack of cooperation.

- Repeal section 649.62 because new Government Code section 13954 defines failure to cooperate with the Board making the regulation unnecessary and redundant.

The Board authorized staff to begin the rulemaking process for the proposed regulations.

Request to Revise the Mental Health Guidelines

Chantel Bermudez, Manager of the Mental Health Section, requested the Board adopt proposed revisions to the Mental Health Guidelines (Guidelines) currently filed with the Secretary of State.

Ms. Bermudez explained that AB 1140, signed by Governor Brown in October 2015, will become effective January 1, 2016. The revisions were necessary to align the Guidelines with the statutes amended by AB 1140. Additionally, in October 2015, the Board directed staff to revise the Guidelines to add case management services for direct victims. Two technical revisions were recommended to improve access to services for direct and derivative victims of sexual assault.

Ms. Bermudez explained that staff proposed the following revisions to the Guidelines: (1) allow victims of unlawful sexual intercourse with a minor, as defined in Penal Code section 261.5(d), to be reimbursed for up to 40 initial session limits; (2) add case management services as a reimbursable expense and remove collateral sessions; (3) allow up to 40 mental health sessions for grandparents and grandchildren if the qualifying crime resulted in death; and (4) provide additional mental health session limits for adult derivative victims whose child was a victim of a sexual assault, without the requirement of therapy being focused for the benefit of the direct victim.

The Board adopted the proposed revisions to the Mental Health Guidelines currently filed with the Secretary of State.

Closed Session

Pursuant to Government Code section 11126 (c)(3), Chairperson Batjer and Member Chivaro adjourned into Closed Session with the Board's Executive Officer and Chief Counsel at 10:30 a.m. to deliberate on proposed decision numbers 1-53.

Open Session

The Board reconvened into Open Session pursuant to Government Code section 11126 (c)(3) at 10:37 a.m. The Board adopted the hearing officer's recommendations for proposed decision numbers 1-53.

Adjournment

The Board meeting adjourned at 10:38 a.m.